

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

JAMES GILBERT BERRY,

Petitioner,

v.

**CIVIL ACTION NO.: 3:20-CV-46
(GROH)**

R. HUDGINS,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation (“R&R”) filed by United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 23] on December 15, 2020. Therein, Magistrate Judge Trumble recommends that the Respondent’s motion to dismiss for lack of jurisdiction [ECF No. 15] be granted, and the Petitioner’s § 2241 petition [ECF No. 1] be denied and dismissed without prejudice. ECF No. 23 at 13.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a petitioner’s right to appeal this Court’s Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir.

1984).

The Petitioner's objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Petitioner by certified mail on December 15, 2020. ECF No. 23. The Petitioner accepted service on December 22, 2020. To date, no objections have been filed. Accordingly, this Court reviews the R&R for clear error.

Upon careful review and thoughtful consideration, the Court finds that Magistrate Judge Trumble's R&R [ECF No. 23] should be, and is hereby, **ADOPTED** for the reasons more fully stated therein. Therefore, the Respondent's Motion to Dismiss [ECF No. 15] is **GRANTED**, and the Petitioner's § 2241 Petition [ECF No. 1] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**.

This Court **ORDERS** that this matter be **STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the *pro se* Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: February 1, 2021

A handwritten signature in blue ink, appearing to read "Gina M. Groh", is written over a horizontal line.

GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE